

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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DATE FILED: 1/10/2023

----- X
 EXTREME REACH, INC., :
 :
 Plaintiff, :
 -against- :
 : 22-CV-7948(VEC)
 :
 PGREF I 1633 BROADWAY LAND, L.P.; 1633 : SEALED OPINION &
 BROADWAY OWNER I, LP; and 1633 : ORDER
 BROADWAY OWNER II, LP, :
 :
 Defendants. :
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VALERIE CAPRONI, United States District Judge:

Plaintiff Extreme Reach, Inc. (“Extreme Reach”), a tenant that leases two floors in a building owned by Defendants, brought suit against Defendants seeking a declaratory judgment that Plaintiff had properly terminated the operative lease agreement. *See* Complaint, Dkt. 1. During the course of discovery, Defendants produced an email that spurred a weekslong kerfuffle over the propriety of Defendants’ redactions of several other documents on the grounds of attorney-client privilege. Pursuant to the Undersigned’s Individual Practices, the parties contacted chambers, and a hearing regarding the discovery dispute took place by telephone on November 10, 2022, *see* Dkt. 24, followed by a Pretrial Conference on November 18, 2022, *see* Dkt. 27. After inspecting the documents *in camera*, the Court outlines below its conclusions with respect to the disputed documents.¹

¹ Copies of all documents and communications reviewed, *in camera*, by the Court will be retained and filed in a manner consistent with this Opinion and Order, *i.e.*, with material redacted that the Court concludes is privileged. That filing shall also include Defendants’ letter submissions. *See infra*, n. 3.

I. BACKGROUND

Extreme Reach leases the fifth and sixth floors of a building owned by Defendants. *See* Compl. ¶ 2. Extreme Reach alleges that it properly provided Defendants with a termination notice and early payout of more than \$7 million but that Defendants intentionally refused to accept the termination so that it could hold Extreme Reach to the lease for the duration of its term. *See* Pl. Dec. 12, 2022 Letter at 1, Dkt. 38. Plaintiff seeks a declaratory judgment that the lease contract has been terminated. Compl. ¶ 75. Defendants counterclaimed for a declaratory judgment that Plaintiff's purported termination notice was not effective because it was not provided in accordance with the provisions of the lease. *See* Answer ¶¶ 39–53, Dkt. 20.

[REDACTED]

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[REDACTED] ¶ [REDACTED]

[REDACTED]

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II. GOVERNING LAW

A. Attorney-Client Privilege⁹

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[REDACTED]
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A series of 20 horizontal black bars of varying lengths, arranged vertically from top to bottom. The bars are of equal height in the first two rows, then decrease in length sequentially. The last bar is the shortest.

The image consists of a vertical column of approximately 25 horizontal black bars. These bars vary in length, creating a visual pattern of alternating solid black segments and white gaps. The bars are positioned at regular intervals along the page.

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III. DISCUSSION

[REDACTED]

A horizontal bar chart illustrating the percentage of respondents who have heard of different topics. The y-axis lists 15 topics, and the x-axis represents the percentage from 0% to 100%. Most topics show high awareness levels, with percentages ranging from approximately 80% to 100%.

Topic	Percentage (%)
Healthcare	95
Technology	92
Finance	90
Politics	88
Science	85
Art	82
Sports	80
Food	78
Entertainment	75
History	72
Music	68
Literature	65
Culture	62
Environment	58
Space	55
Mathematics	52

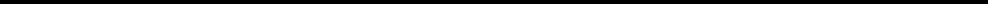
11 [REDACTED]

The figure consists of a sequence of 15 horizontal black bars. Each bar has a thin white border. The bars are arranged vertically, with a small gap between each. They vary in length, creating a visual effect similar to a ruler or a set of measuring tape. The lengths of the bars decrease from top to bottom.

13 [REDACTED]

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The image consists of a series of horizontal black bars of varying lengths, arranged vertically. The bars are solid black and have irregular, jagged ends, suggesting they are fragments of text or images that have been redacted. They are set against a white background.

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B.

A horizontal bar chart illustrating the distribution of 1000 samples across 10 different categories. The x-axis represents the frequency of samples, ranging from 0 to approximately 100. The y-axis lists the categories. Category 1 has the highest frequency, exceeding 90. Categories 2, 4, and 7 have the lowest frequencies, each around 10.

Category	Frequency
1	~95
2	~10
3	~10
4	~10
5	~10
6	~10
7	~10
8	~10
9	~10
10	~10

Term	Percentage
GMOs	85%
Organic	85%
Natural	85%
Artificial	75%
Organic	85%
Natural	85%
Artifical	75%
Organic	85%
Natural	85%
Artificial	75%
Organic	85%
Natural	85%
Artificial	75%
Organic	85%
Natural	85%
Artifical	75%

A large black rectangular redaction box covers the majority of the page content, from approximately y=178 to y=450. It is positioned above a white horizontal bar at y=178 and below a white horizontal bar at y=450.

A series of horizontal black bars of varying lengths, likely representing data values or frequencies. The bars are arranged vertically and have thin white borders.

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22 [REDACTED]

[REDACTED]

The image consists of a series of horizontal black bars of varying lengths, arranged vertically. The bars are solid black and have thin white borders. They are positioned against a white background. The lengths of the bars decrease from top to bottom, creating a visual effect similar to a ruler or a scale. There are approximately 20 bars in total.

A series of 12 horizontal black bars of varying lengths, representing data points across 12 categories. The bars are arranged vertically from top to bottom. The lengths of the bars decrease sequentially from the top bar to the bottom bar.

IV. CONCLUSION

For the foregoing reasons, Defendants are hereby ORDERED to produce in full the following documents consistent with this Opinion and Order, by no later than **January 25, 2023**:

PGREF00308 (McManus Email from July 12, 2022 at 1:33 PM); PGREF00223 (same); and
PGREF00220 (same); PGREF00230; PGREF00238; PGREF00308; PGREF00237;
PGREF00310; PGREF00324–328; PGREF00329–331; PGREF00333, and PGREF00335.

This Opinion and Order, other than the first and last two paragraphs, will be filed under seal until January 24, 2023, with access restricted to Defendants only so as to give Defendants time to decide whether they wish to seek a stay to pursue an appeal. If no stay has been sought by 5:00 p.m. on January 24, 2023, this Opinion and Order will be unsealed in full.

The Clerk of Court is respectfully directed to restrict access to the unsealed version of this opinion so that it is viewable only by Defendants.

SO ORDERED.

Date: January 10, 2023
New York, New York

Valerie Caproni

VALERIE CAPRONI
United States District Judge